

IN THE CLAIMS:

1. (Currently Amended) A composition useful in treating mammalian tissue, said composition being comprised of a peptide ~~corresponding to~~ comprising SEQ ID NO: 48 (Glycine-Alanine-Valine-Valine-Proline-Glutamine).
2. (Original) The composition of claim 1, wherein said peptide is at a therapeutically effective concentration in a range of about .0002% to about 90%.
3. (Original) The composition of claim 1, wherein said composition is a cosmetic preparation.
4. (Original) The composition of claim 3, wherein said cosmetic preparation is formulated as a topical preparation to be applied to a patient's skin.
5. (Original) The composition of claim 4, wherein said topical preparation is selected from the group consisting of an emulsion, lotion, spray, aerosol, powder, ointment, cream and foam.
6. (Original) The composition of claim 1, wherein the mammalian tissue being treated is a blood vessel.
7. (Original) The composition of claim 1, wherein the composition is useful for treating a condition selected from the group consisting of hypertension, coronary heart disease, arteriosclerosis, angina, coronary thrombosis, chronic obstructive pulmonary disease, and restenosis post angioplasty.
8. (Original) The composition of claim 1, wherein said peptide is useful in improving tissue turgor.
9. (Original) The composition of claim 1, wherein said composition further includes a pharmaceutical delivery system.

10. (Original) The composition of claim 9, wherein said pharmaceutical delivery system is selected from the group consisting of a topical delivery system and a subcutaneous delivery system.

11. (Original) The composition of claim 10, wherein said topical delivery system is selected from the group consisting of a cosmetic preparation, powder, emulsion, lotion, spray, ointment, aerosol, cream and foam.

12. (Currently Amended) A peptide having a formula of R_1 -Valyl-Valyl-Prolyl-Glutyl- R_2 , wherein R_1 is an amino portion modified to include an amine, amide, or amino acid sequence having 1-10 amino acids and R_2 is a carboxy portion modified to include an amide, ester, or carboxy terminus sequence having 1-10 amino acids.

13. (Currently Amended) A peptide ~~corresponding to~~ comprising a peptide selected from the group consisting of SEQ ID 42 (Alanine-Valine-Proline-Glutamine-Amide), SEQ ID 43 (Acetyl-Valine-Valine-Proline-Glutamine), SEQ ID 44 (Acetyl-Glycine-Alanine-Valine-Valine-Proline-Glutamine-Amide), SEQ ID 45 (Alanine-Valine-Valine-Proline-Glutamine), SEQ ID 46 (Glycine-Alanine-Valine-Valine-Proline-Glutamine), SEQ ID 47 (Alanine-Valine-Valine-Proline-Glutamine-Amide), SEQ ID 48 (Glycine-Alanine-Valine-Valine-Proline-Glutamine), SEQ ID 49 (Cysteine-Valine-Valine-Proline-Glutamine-Cysteine), SEQ ID 50 (Cysteine-Alanine-Valine-Valine-Proline-Glutamine-Cysteine), SEQ ID 51 (Cysteine-Glycine-Alanine-Valine-Valine-Proline-Glutamine-Cysteine), SEQ ID 52 (Cysteine-Valine-Valine-Proline-Glutamine-Cysteine), SEQ ID 53 (Cysteine-Alanine-Valine-Valine-Proline-Glutamine-Cysteine), SEQ ID 54 (Cysteine-Glycine-Alanine-Valine-Valine-Proline-Glutamine-Cysteine).

Claims 14-18 (Canceled)

19. (Currently Amended) A pharmaceutical composition comprised of a peptide ~~corresponding to~~ comprising SEQ ID 48 (Glycine-Alanine-Valine-Valine-Proline-Glutamine).

20. (Currently Amended) A cosmetic preparation comprised of a peptide ~~corresponding to~~ comprising SEQ ID 48 (Glycine-Alanine-Valine-Valine-Proline-Glutamine).

21. (Currently Amended) The peptide as set forth in claim 13, where the peptide ~~corresponding to~~ comprises SEQ ID NO: 45 (Alanine-Valine-Valine-Proline-Glutamine).

22. (Currently Amended) The peptide as set forth in claim 13, where the peptide ~~corresponding to~~ comprises SEQ ID NO: 50 (Cysteine-Alanine-Valine-Valine-Proline-Glutamine-Cysteine).

23. (Currently Amended) The peptide as set forth in claim 13, where the peptide ~~corresponding to~~ comprises SEQ ID NO: 53 (Cysteine-Alanine-Valine-Valine-Proline-Glutamine-Cysteine).

REMARKS

In the Advisory Action dated July 8, 2003, the Examiner acknowledged the Amendment after final, but did not enter the amendments to the claims and maintained the rejections of record even though, as the Examiner stated, the proposed amendment would have overcome the rejections. The Examiner asserted that the proposed claim language “comprising” would necessitate further search and new rejections of proteins comprising recited sequences. As such, Applicant files the present submission.

Claims 1-20 were filed in this case. Of these, claims 14-18 have been cancelled without prejudice for later presentation in this or related cases. Claims 1-13 and 19-23 are rejected, and claim 13 is objected to. Thus, claims 1-13, and 19-23 are pending.

This response addresses those issues raised in the Advisory Action. It is believed that the present amendment renders all pending claims allowable.

THE EXAMINER’S ACTION

In the Advisory Action dated July 8, 2003, the Examiner:

rejected claims 1-11, 13, 19, and 20-23 under U.S.C. § 112 second paragraph as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention;

rejected claim 12 under 35 U.S.C. § 102(b) as being anticipated by WO8909787;

rejected claim 13 under the judicially created doctrine of obviousness-type double patenting; and

objected to the recitation of sequences for SEQ ID NOS. 47, 49, and 53 in claim 13.

REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Office has rejected claims 1-11, 13, 19, and 20-23 under U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claims the subject matter which applicant regards as the invention. Claims 1, 13, and 19-23 have been amended to recite a peptide “comprising” or “comprises” a particular SEQ ID rather than “corresponding to.”

In light of the amendments, one of ordinary skill in the art would be apprised of the scope of the invention and therefore the rejection should be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 102(b)

The Office has rejected claim 12 under 35 U.S.C. § 102(b) as being anticipated by WO8909787. The Office has taken the position that the reference discloses the peptide VGVVPGIPEP, which contains the sequence VVP, anticipating the claims drawn to the generic formula R_1 -VVP- R_2 . While disagreeing with the Office about the anticipatory effect of the reference, Applicant here amends claim 12 to call for a peptide having a formula of R_1 -Valyl-Valyl-Prolyl-Glutyl- R_2 . In light of the addition of the glutamine amino acid residue to the formula, the reference fails to disclose every element of claim 12, therefore the rejection should be withdrawn.

DOUBLE PATENTING REJECTION

The Office has rejected claim 13 under obviousness type double patenting as being unpatentable over claims 1-11 and 27 of U.S. Patent No. 6,069,129, which claims recited SEQ ID No 17 (VVPQ). The Office asserts that the only difference between SEQ ID No 17 and SEQ ID Nos 42 and 43 in the instant application is that SEQ ID No 42 and SEQ ID No 43 have protective groups at either the N and/or C termini. The Office has taken the position that such a substitution is obvious because it is well known in the art that such substitutions increase solubility and/or stability for pharmaceutical applications.

Although Applicant strongly disagrees with the Examiners position, a terminal disclaimer over U.S. Patent No. 6,069,129 and the appropriate fee under 37 C.F.R. § 1.20(d) is submitted herewith. As such, Applicant believes the rejection has been overcome.

CLAIM OBJECTIONS

The Office objected to the recitation of sequences for SEQ ID Nos. 47, 49, and 53 in claim 13 as being erroneous. The sequence recitations of SEQ ID Nos. 47, 49, and 53 in claim 13 have been amended to correctly recite two valine residues. In addition, claim 23 has also

been amended to correctly recite two valine residues in SEQ ID No. 53. As such, the objection is believed to be overcome.

CONCLUSION

In view of the amendments to the claims and the remarks presented herein, it is submitted that the present application is in condition for final allowance and notice to such effect is requested.

Respectfully submitted,

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